

## **MS4 Permit Renewal Timeline and Process COR090000 and COR080000**

The Colorado Department of Public Health and Environment, Water Quality Control Division (the Division) has a [Standard Operating Procedure](#) for permit process participation opportunities. The written SOP was created because procedures implemented by the Division for participation in the permit process have varied over time. The Division determined that it would be appropriate to have a documented SOP so that participation opportunities would be implemented in a consistent manner across permit actions and to increase transparency and understanding with external stakeholders. Specifically for the above listed MS4 general permits, the Division developed a timeline for the renewal of the Phase II MS4 general permits that was posted on the web and discussed at a kickoff meeting in November 2012.

In response to several questions received by the Division the more detailed timeline in this document is being provided to more fully explain the participation opportunities for the permit renewal process.

Consistent with the SOP, development of a draft permit consists of many steps. In the case of master general renewal permits, the Division receives renewal applications from all the entities currently covered by the general permit. The Division contacted permittees to alert them that work would begin on the renewal permit and developed a timeline specific to these permits.

Early in the permit drafting process the Division initiates dialogue with permittee(s). One of the goals of early dialogue is to obtain updated and/or supplemental information, beyond that contained in the renewal applications. MS4 permits in Colorado and nationally, contain practice-based effluent limitations and requirements as opposed to numeric effluent limitations contained in other types of Clean Water Act permits. This difference makes MS4 permits in some ways more challenging to develop and the Division believes it is crucial have significant engagement with stakeholders. For this reason, the Division has facilitated seven stakeholder meetings focused on dialogue with current permittees prior to developing a draft permit for public notice. This extended process was developed with the purpose of gathering input from stakeholders and to allow permittees to have heard and been able to provide additional information on areas that the Division had identified early in the process for potential substantive changes.

The following provides more detail to the timeline that was provided in November 2012. This timeline will be consistently reviewed and may be adjusted as progress on the permit continues. Any changes will be communicated with stakeholders. (Note that the Division is anticipating that it is highly likely that the current two permits will be combined into one permit, and based on initial input currently believes that this decision is supported by MS4 permittees).

**\*MS4 Permit Renewal Information on the Division's web page is at:**

[www.coloradowaterpermits.com](http://www.coloradowaterpermits.com) (under "Work Plan Status for General Permits"/ "MS4 Sector General Permits Renewal COR090000/COR080000").

## **COR090000 and COR080000 Permit Renewal Timeline**

**Pre-Permit Drafting:** This phase is used to gather information needed to develop a draft permit and to solicit constructive feedback on permit concepts and approaches with the goal of having draft permit decisions be as sound and robust as possible.

- The Division evaluates the current permit, information from oversight activities and submittals, and other relevant information such as published studies, EPA guidance and other permits for similar sources. This evaluation informs general areas for possible permit revisions and potential concepts.
- **Dec 2012 – August 2013: Stakeholder meetings**
  - **COMPLETED:** The Division held 8 meetings focused on dialogue with MS4 permittees. Meeting minutes and summaries for these meetings are on the Division's web page for the MS4 permit renewal\*  
Meeting dates: 11/2/12, 12/12/12, 1/10/13, 1/31/13, 2/19/13, 3/6/13, 3/18/13, 8/17/13
  - **COMPLETED:** The Division participated in three Water Quality Forum – MS4 Issues Work Group meetings to discuss permanent BMPs for roadway projects. See the WQ Forum website for details:  
<http://colowqforum.org/workgroup-ms4-stormwater.html>  
Meeting Dates: 1/9/13, 1/29/13, 3/11/13
  - **COMPLETED:** Attended meetings and had extensive communication with permittees (individually and in small groups) as requested by permittees to discuss areas of substantive change and obtain input.
  - **COMPLETED:** The Division hosted a listening session to obtain additional input from MS4 permittee's on 4/17/13, the agenda and information provided by the Colorado Stormwater Council for this meeting are on the Division's web page for the MS4 permit renewal\*
- **Pre-Public Notice Meeting and Input**
  - **5/6/13 – Pre-Public Notice Meeting**
    - **COMPLETED:** This meeting was held to identify interested stakeholders early in the renewal process, to summarize the general areas for permit revisions and potential concepts, to answer questions, and to receive preliminary oral feedback on the general areas for permit revisions.
  - **5/6/13 to 5/20/13 – Division solicits initial written input**
    - **COMPLETED:** Although feedback and additional information is solicited several times during the process, the Division specifically requests written input on the information provided at the pre-public notice meeting to inform development of the draft permit to the extent possible. Input provided at this time is to assist the Division in developing the draft permit. The Division may use this information to revise the concepts for permit revisions provided at the pre-public notice meeting. Because this information is used for developing the draft permit which will be officially noticed for comment, the Division does not provide written responses to input at this time. However, stakeholders may repeat any input during public notice (below) if they have remaining comments/questions that are still relevant and not answered by

the draft permit, and the Division will provide a written response as addressed below in the “Development of Final Permit” section.

### **Development of DRAFT Permit**

- **COMPLETED.** The Division develops (writes) the draft permit and associated permit fact sheet for public notice and comment. The Division may contact stakeholders during this period to obtain clarifying information on previously submitted input or to obtain additional technical information needed to develop the draft permit documents.
- **COMPLETED.** If timing allows, the Division will send copies of the draft permit and fact sheet to permittees for a “jump start” on review. Note: this is not an opportunity or solicitation for comments prior to the start of the public notice process. In this case the Division conducted a special public notice and made the documents available on the web site to all interested parties as soon as they were developed.

### **Public Comment on DRAFT Permit**

- **Public Notice**
  - **November 1, 2013– Public Notice Permit and Fact Sheet**
    - **COMPLETED.** The draft permit documents are officially public noticed in accordance with The Colorado Discharge Permit System Regulation, 5 CCR 1000-61. The Division established a 71-day public notice timeframe (which includes the 60 day duration required in cases where a public meeting is requested). The draft permit documents were public noticed in the Denver Post and the Water Quality Bulletin, posted on the Division’s web page, and the draft permit documents were provided to the Permittee’s legal contact. The summary of the content of the public notice, in accordance with Regulation 61.5(2), includes:
      - The proposed effluent limitations, which include the restriction or prohibition established on quantities, rates, and concentrations of constituents which are discharged into state waters. The proposed effluent limits in this case are narrative, or practice-based, and are the proposed requirements to control or abate the discharge of pollutants.
      - A fact sheet that sets forth the basis for the effluent limits, including a finding that compliance with the effluent limits will result in controls on the pollutant of concern which are sufficient to comply with regulatory requirements, including protection of water quality standards and the requirement to discharges from MS4s to be controlled to the Maximum Extent Practicable.
      - Any proposed schedules of compliance, including interim dates and requirements
      - All proposed monitoring requirements
      - All other proposed terms and conditions, including reporting, record keeping, etc.

- **November 12, 2013 – Information Question & Answer Session**

- COMPLETED. The Division hosted a meeting to provide information on the draft renewal permit and an opportunity for stakeholders to ask questions that will help facilitate effective and efficient review and comment.

- **December 16, 2013 – Public meeting**

- COMPLETED. The Division conducted a public meeting, in accordance with Regulation 61.5(3), during the public notice period. The public notice meeting provides an opportunity for the Division to provide an overview of the draft permit, answer questions, and accept official oral comments on the draft permit by having recording capability. The Regulation provides for a public meeting upon request. The Division's practice is to proactively plan for a public meeting in cases where the Division is aware that there is a significant degree of public interest regarding a permit which was done in this case.

- **December 2013 – January 2014 - Stakeholder meetings**

- COMPLETED: The Division has attended meetings and had extensive communication with permittees (individually and in small groups) as requested by permittees to discuss the draft permit and help facilitate effective and efficient review and comment.

- **January 10, 2014 – Submittal of Public Comment:**

- All Interested persons may submit written comments to the Division on the draft permit. **This is the key opportunity for all stakeholders to review the draft permit and provide detailed comments.** The Division requests that stakeholders identify specific conditions in the permit and indicate if they have agreement or disagreement with the draft conditions. Where there is disagreement, provide alternative suggestions where possible. The scope of the public comment includes both the draft permit and draft fact sheet documents, and where stakeholders have disagreement regarding draft permit conditions and suggested alternatives, it is particularly helpful if they can also provide a suggested basis for the alternative that could modify or replace the basis provided in the draft fact sheet. Stakeholders may also provide new information that has not already been part of the permit record that should be considered in permit development.

### **Development of Second DRAFT Permit**

- **January – April 2014:** This step has been added based on the scope of public comment received during the public comment period and the public meeting. Key factors include a request for consideration of requirements beyond those that were included in the draft permit regarding trash, a cost benefit study being conducted by the Colorado Stormwater Council that is expected to provide new information, and significant comment regarding construction site inspections and recordkeeping that will likely warrant revision of draft permit conditions. Given these factors and given the scope of the permit and level of public interest, the Division has determined that a second draft and public notice process is appropriate in this case.

- **January – March 2014:** Additional stakeholder meetings: The Division anticipates stakeholder meetings as needed to discuss possible changes to the initial draft permit in key topic areas.

### **Added Step: Public Comment on Second DRAFT Permit**

- **April 2014:** Second Public Notice
  - **Public Notice Permit and Fact Sheet:** The draft permit documents will be officially public noticed in accordance with The Colorado Discharge Permit System Regulation, 5 CCR 1000-61. The Division anticipates a 60-day public notice timeframe (which includes a 30-day extension). The draft permit documents will be public noticed in the Denver Post and the Water Quality Bulletin, posted on the Division's web page, and the draft permit documents will be provided to the Permittee's legal contact. A summary of the content of the public notice, in accordance with Regulation 61.5(2), includes:
    - The proposed effluent limitations, which include the restriction or prohibition established on quantities, rates, and concentrations of constituents which are discharged into state waters. The proposed effluent limits in this case are narrative, or practice-based, and are the proposed requirements to control or abate the discharge of pollutants.
    - A fact sheet that sets forth the basis for the effluent limits, including a finding that compliance with the effluent limits will result in controls on the pollutant of concern which are sufficient to comply with regulatory requirements, including protection of water quality standards and the requirement to discharges from MS4s to be controlled to the Maximum Extent Practicable.
    - Any proposed schedules of compliance, including interim dates and requirements
    - All proposed monitoring requirements
    - All other proposed terms and conditions, including reporting, record keeping, etc.

**Development of Final Permit** [Note that dates following public notice are only the Division best guess at this time, and may be subject to significant modification.]

- **Review, Evaluate, and Respond to Comments:** Approximately Summer 2014.
  - Division reviews and compiles comments
    - The Division may contact entities who provided comments to obtain electronic copies, to facilitate grouping and organizing comments. The Division may also contact entities for clarification to understand major issues
  - Division draft responses to comments and identifies changes to permit documents
    - Contact parties as necessary to discuss resolution of the issues, associated changes to permit documents, and changes needed to the permit application or record to document agreement.
  - Conduct additional stakeholder meetings as necessary

- These will be conducted as necessary to allow for the Division to fully evaluate and reconcile public comments and to develop modified permit language.
- Provide draft responses to entities that provided comment
  - For complex permits with substantive comments, the Division provides draft responses to those entities that provided comment in advance of permit issuance. This is done for three primary reasons: to be sure all the comments were in fact received and properly understood; to eliminate surprises for those who have contributed significantly to the permit development process; and to hear back from entities regarding the extent to which the response is understood.
- Develop final permit and fact sheet documents.
  - The final permit documents will include the same type of information that was included in the draft permit documents that were public noticed, including effluent limitations, a fact sheet with the basis for the terms and conditions. The final response to comments document is also included in the final permit documents as a part of the permit fact sheet record.
- **Issue Permit:** Approximately Summer 2014 or later
  - The Final Permit and Fact Sheet including Response to Comments are Issued.
  - Issue Permit Certifications
  - **Allow 30 Days for Appeal**
    - Regulation 61.7 includes the process for any person affected or aggrieved by the Division's final permit issuance to demand an adjudicatory hearing within thirty (30) days of the issuance of the final permit determination.
    - Regulation 61.7(1) includes a process for a stay of permit conditions.
- **Permit Effective:** Approximately Fall 2014 or later.
  - Permit becomes effective a minimum of 30 days after the date of issuance. For master general permits in particular, the Division may include an additional time period between the permit issuance date and the permit effective date to allow the Division time to issue all the permit certifications, and in cases where there are significant changes to the permit to provide permittees more time to fully understand and prepare to implement permit changes.
  - Note that the permit may include schedules for compliance for some new permit conditions to allow for a period for permittees to make necessary changes to comply with those conditions.